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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,855	02/27/2002	Micheline Schulte	153314.90017	4603

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EXAMINER

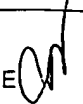
GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/083,855	Applicant(s) SCHULTE, MICHELINE 	
	Examiner Bryon P. Gehman	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Applicant's election of Group I, claims 1-21 in the paper filed July 29, 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis (6,007,264) in view of Smith et al. (5,242,433). Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. (2003/0118535) in view of Smith et al. ('433). Koptis and Lustbader et al. each disclose a hair removal system from the skin including a hair removal solution (see col. 15, lines 39-53; page 1, section 0002; respectively) and a package (3; page 1, section 0011). Smith et al. discloses an application system for applying solution to the skin including a first pad (20) and a package (10). To modify the system of either one of Koptis and Lustbader et al. employing the application teaching of Smith et al. would have been obvious in order to easily apply solution to the skin via a pad, as suggested by Smith et al..

As to claims 2-3 and 13-14, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

As to claims 4 and 9, Smith et al. disclose a package including first and second pieces of material (14 and 12 or one of 12' and 12").

As to claims 5 and 10, Smith et al. disclose a package including a third piece of material (the remainder of 12' and 12").

As to claims 6 and 11, Smith et al. disclose impregnating the pad (20) with solution.

As to claims 7 and 12, Smith et al. disclose a second pad (22).

As to claim 8, the package is sealed.

4. Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koptis in view of Smith et al. ('433). Claims 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lustbader et al. in view of Smith et al. ('433). Koptis, Lustbader et al. and Smith et al. have been explained above. To provide the system as claimed would have been obvious in view of either one of Koptis and Lustbader et al. in view of Smith et al. for the reasons given in the previous paragraph.

As to claims 16 and 20, to impregnate the pad with hair removal solution would have been obvious in order to facilitate applying to the skin.

As to claims 17-18, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

As to claim 19, Smith et al. disclose a package including a third piece of material (the remainder of 12' and 12").

As to claim 21, Smith et al. discloses a second pad (22).

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 15 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al. ('433). Disclosed is a method comprising providing a first pad (20), placing the pad in a first pouch formed between first and second pieces of material (14 and 12') and sealing the first pouch. The reference to hair solution is just that, no inclusion in the method.

As to claims 17 and 18, Smith et al. disclose the pad to be of a porous material (see col. 5, lines 43-52).

As to claim 19, Smith et al. disclose a package including a third piece of material (12').

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are solution application systems including packaged pads.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (703)

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605-1174. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (703) 308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BPG

Bryon P. Gehman
Primary Examiner
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